

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**August 11, 2011**

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Cravens, Chair; Marie Copeland; Mike Owens; William Wilson; Eunice Beatty; Carla Blanton (arrived at 1:32 p.m.); Derek Paulsen and Lynn Roche-Phillips. Patrick Brewer was absent.

Planning Staff Present – Chris King; Bill Sallee; Barbara Rackers; Jimmy Emmons; Cheryl Gallt; Chris Taylor and Denice Bullock. Other staff members in attendance were: Steve Parker, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Captain Charles Bowen, Division of Fire & Emergency Services; Tim Queary, Division of Streets, Roads and Forestry; Debbie Barnett, Division of Water Quality and Ed Gardner, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the members that the Planning Commission minutes of the June 23, 2011 and July 14, 2011, meetings had been previously distributed to the Commission, and was ready to be considered at this time.

Action - A motion was made by Mr. Owens, seconded by Ms. Beatty and carried 7-0 (Blanton and Brewer absent) to approve the minutes of the June 23, 2011 and July 14, 2011, meetings.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

*Note: Ms. Blanton arrived at this time.*

- a. PLAN 2011-81F: RIDDELL PLAZA (AMD) (9/28/11)\* - located at 301 and 313 Burley Avenue.  
(Council District 11) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2011-81F: RIDDELL PLAZA (AMD) to the September 8, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Ms. Roche-Phillips, and carried 8-0 (Brewer absent) to postpone PLAN 2011-81F: RIDDELL PLAZA (AMD) to the September 8, 2011, Planning Commission meeting.

- b. DP 2011-62: RIDDELL PLAZA, LOTS 1 & 4 (9/5/11)\* - located at 301 and 313 Burley Avenue.  
(Council District 11) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2011-62: RIDDELL PLAZA, LOTS 1 & 4 to the September 8, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 8-0 (Brewer absent) to postpone DP 2011-62: RIDDELL PLAZA, LOTS 1 & 4 to the September 8, 2011, Planning Commission meeting.

- c. PLAN 2011-73F: DERBY LANDING (9/25/11)\* - located on Derby Landing Circle.  
(Council District 10) **(Eagle Engineering)**

Staff Comments – Mr. Emmons said that the staff had received an email correspondence from the applicant, requesting postponement of PLAN 2011-73F: DERBY LANDING to the August 25, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Wilson, and carried 8-0 (Brewer absent) to postpone PLAN 2011-73F: DERBY LANDING to the August 25, 2011, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, August 4, 2011, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Cheryl Gallt, Chris Taylor, Denice Bullock, Jimmy Emmons, Barbara Rackers and Traci Wade, as well as Captain

---

\* - Denotes date by which Commission must either approve or disapprove plan.

Charles Bowen, Division of Fire & Emergency Services; Debbie Barnett, Division of Water Quality and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

*General Notes*

*The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.*

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

**A. CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
  - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
  - (3) no discussion of the item is desired by the Commission; and
  - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
  - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
  - (2) from the Planning Commission,
  - (3) from the audience, and
  - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items, and the other item listed had been recommended for a one-year extension. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. **PLAN 2011-80F: GESS PROPERTY, UNIT 1** (9/28/11)\* - located at 400 and 480 Chilesburg Road.  
(Council District 7) **(EA Partners)**

**The Subdivision Committee Recommended: Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Approval of street addresses as per e911 staff.
  5. Urban Forester's approval of tree protection area(s) and required street tree information.
  6. Department of Environmental Quality's approval of environmentally sensitive areas.
  7. Greenspace Planner's approval of the treatment of greenways and greenspace.
  8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  9. Denote: Access to Lot 2 shall be through Lot 1 per the approved development plan.
  10. Denote: There shall be no vehicular access to Chilesburg Road.
  11. Addition of tree preservation areas from approved development plan.
  12. Resolve greenway easement and/or dedication for Lot 3.
2. **PLAN 2011-84F: DENTON FARM, INC., UNIT 3, SECTION A (AMD) (ELLERSLIE AT DELONG)**  
(10/12/11)\* - located at 122 Somersly Place (Council District 7) **(Strand Associates)**

**Note**: The purpose of this amendment is to subdivide one lot into 20 lots.

**The Subdivision Committee Recommended: Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of note for side yard drainage maintenance at the end of the townhomes.
8. Correct date on Planning Commission certification.
9. Correct plan title.
10. Resolve the status for release of easement for Lots 28 & 29.
11. Review by Technical Committee prior to certification.

---

\* - Denotes date by which Commission must either approve or disapprove plan.

3. DP 2011-67: LOCUST HILL SHOPPING CENTER, OUTLOT 7 (AMD) (9/28/11)\* - located at 3043 Richmond Road. (Council District 7) **(Advance Civil Design)**

Note: The purpose of this amendment is to increase the building floor area and revise the parking layout for outlot 7.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree protection plan.
  6. Department of Environmental Quality's approval of environmentally sensitive areas.
  7. Division of Fire's approval of emergency access and fire hydrant locations.
  8. Division of Waste Management's approval of refuse collection.
  9. Denote construction access locations.
  10. Correct Commission's certification.
  11. Correct plan type (not a minor plan).
  12. Addition of property owner's and developer's information.
  13. Denote height of building.
  14. Revise sidewalk and Richmond Road improvements shown.
  15. Document that landscaping will meet the Richmond Road Landscape Ordinance.
  16. Provide a sidewalk on the western property line.
4. DP 2011-68: DRUID HILLS SUBDIVISION, LOT 6 (FIRST SECURITY NATIONAL BANK & TRUST CO.) (AMD) (9/28/11)\* - located at 1260 Winchester Road. (Council District 1) **(Banks Engineering)**

Note: The purpose of this amendment is to relocate the building on the site and revise the parking layout.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree protection plan.
  6. Division of Fire's approval of emergency access and fire hydrant locations.
  7. Division of Waste Management's approval of refuse collection.
  8. Bike and Pedestrian Planner's approval of pedestrian facilities.
  9. Resolve walkway dimensions.
  10. Addition of building height.
  11. Denote the Division of Engineering's approval for pavement and landscape improvements in right-of-way.
  12. Addition of the Board of Adjustment's case # for the variance (V-2011-21).
  13. Document the location of the landscaping improvements in the right-of-way (located between the Ashton Drive access points) as required by the BOA.
  14. Provide tree in landscaping area near proposed overhead door (accessory storage areas).
5. DP 2011-74: JAMES MOTOR CO. & KATHRYN MCBRAYER PROPERTY (AMD) (10/18/11)\* - located at 2440 Richmond Road and 2350 Lake Park Road. (Council District 5) **(EA Partners)**

Note: The purpose of this amendment is to add a parking area for new vehicle sales.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree protection plan.
6. DP 2010-26: GRIFFIN GATE OFFICE PARK (AMD) (10/26/10)\* - located at 1460 Newtown Pike. (Council District 2) **(Wheat and Ladenburger)**

Note: The purpose of this amendment is to add 923 square feet of buildable area and a new access point. The Planning Commission originally approved this plan on August 12, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

---

\* - Denotes date by which Commission must either approve or disapprove plan.

3. Building Inspection's approval of two additions, landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Addition of Final Record Plat information for property.
9. Addition of building, lot coverage and floor area information to site statistics.
10. Addition of utility easements.
11. Addition of information from the certified development plan (DP 2008-16).
12. Denote Board of Adjustment approval of a variance to the side yard setback, or revise "Area B" to meet side yard setback requirement.
13. Denote construction access location.
14. Denote storm water detention area for this development.

Note: The applicant now requests a one-year extension of the Commission's prior approval.

The Subdivision Committee Recommended: **Approval of a one-year extension**, subject to the previous conditions.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed for discussion purposes.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Beatty, and carried 8-0 (Brewer absent) to approve the items listed on the Consent Agenda.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

*Note: Ms. Blanton departed at this time.*

Action - A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 8-0 (Blanton abstained; Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated August 11, 2011, from Ron St. Clair, Division of Engineering.

- C. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

**1. FINAL SUBDIVISION PLANS**

*Note: The next four items were heard simultaneously.*

*Note: Ms. Blanton arrived at this time.*

- a. PLAN 2005-269F: GESS PROPERTY (CHILESBURG), UNIT 2-D (8/4/11)\* – located on portions of 400, 480, 700, 750 and 950 Chilesburg Road. (Council District 7) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 13, 2005, and reapproved it on February 8, 2007 and August 12, 2010, subject to the conditions listed below, as well as making a recommendation to monitor the USGS data with regard to runoff.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

---

\* - Denotes date by which Commission must either approve or disapprove plan.

5. Approval of street addresses by e911 staff.
6. Urban Forester's approval of tree preservation plan.
7. Greenspace Planner's approval of the treatment of greenways/bike trails.
8. Environmental Planner's approval of environmentally sensitive areas.
9. Solid Waste's approval of notes regarding refuse collection.
10. Addition of exaction information.

Note: The applicant now requests a one-year extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions, with an additional condition:

11. Monitor the USGS data with regard to runoff, as recommended by the Commission on August 12, 2010.

- b. PLAN 2006-220F: GESS PROPERTY, UNIT 2-E (CHILESBURG) (8/4/11)\* – located off Hays Boulevard.  
(Council District 7) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 12, 2006. Section 1 of this plan was recorded on October 11, 2007 and Section 2 was reapproved on August 12, 2010, subject to the conditions listed below.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation areas.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Complete exaction information to the approval of the Division of Planning.
8. Greenspace Planner's approval of the treatment of greenways, bike trails and pedestrian movement.
9. Correct and label access cross-sections.
10. Clarify the connections of greenspace area.

Note: The applicant now requests a one-year extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

- c. PLAN 2006-221F: GESS PROPERTY, UNIT 2-F (CHILESBURG) (8/4/11)\* – located off Hays Boulevard.  
(Council District 7) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 12, 2006. Section 1 of this plan was recorded on October 11, 2007 and Section 2 was reapproved on August 12, 2010, subject to the conditions listed below.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation areas.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Complete exaction information to the approval of the Division of Planning.
8. Greenspace Planner's approval of the treatment of greenways, bike trails and pedestrian movement.
9. Correct and label access cross-sections.
10. Recordation of consolidation plat for lot 77L prior to plan certification.

Note: The applicant now requests a one-year extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

- d. PLAN 2006-222F: GESS PROPERTY, UNIT 2-G (CHILESBURG) (8/4/11)\* – located off Hays Boulevard.  
(Council District 7) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 12, 2006. Section 1 of this plan was recorded on October 11, 2007 and Section 2 was reapproved on August 12, 2010, subject to the conditions listed below.

---

\* - Denotes date by which Commission must either approve or disapprove plan.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation areas.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Complete exaction information to the approval of the Division of Planning.
8. Greenspace Planner's approval of the treatment of greenways, bike trails and pedestrian movement.
9. Correct and label access cross-sections.
10. Division of Fire's approval of emergency access easement (show location on the plan).

Note: The applicant now requests a one-year extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

Staff Presentation – Mr. Emmons directed the Commission's attention to four renderings of the final record plats for the Gess Property, Unit 2-D through Unit 3-G. He noted that the subject properties are located on a portion of Chilesburg Road and just off Hays Boulevard. He briefly described the overall area of the Gess Property, as well as the location of the street system. He noted that Units 2-A, 2-B and 2-C have been recorded, and the applicant is now requesting a one-year extension for Units 2-D, 2-E, 2-F and 2-G. Mr. Emmons said that the one-year extension will allow the applicant to continue to record the remaining sections of Unit 2. He then said that the only sections left in Unit 2 include the open space/greenway areas, as well as some residential lots.

Mr. Emmons stated that the Planning Commission had originally approved these plats on October 13, 2005 and October 12, 2006. On August 12, 2010, the Planning Commission reapproved these plats, and that reapproval is set to expire on August 12, 2011. He said that since the reapproval of these plats has not expired, the applicant has requested the one-year extension, subject to the conditions listed on the agenda.

Mr. Emmons said that the staff is recommending approval of the applicant's requests; however, as for PLAN 2005-269F: GESS PROPERTY (CHILESBURG), UNIT 2-D, the staff is recommending an additional condition to reflect the Planning Commission's recommendation to monitor the USGS data with regard to runoff.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested approval of the one-year extensions.

Planning Commission Questions – Mr. Owens thanked the staff for presenting this information clearly to the Commission. He said that Unit 2-D lists the need for the Environmental Planner's approval, and asked if there are any environmentally sensitive areas on site. Mr. Emmons replied affirmatively, and said that the Urban County Engineer will also need to approve the drainage, storm and sanitary sewers, and floodplain information; whereas the Environmental Planner will need to approve any environmentally sensitive areas. Mr. Owens asked if their approval would include the Consent Decree Order or any water quality permits. Mr. Emmons replied affirmatively.

Mr. Owens said that it appears there has been repair work on the detention basin, and asked for some further clarification of that activity. Mr. Emmons said that the staff had received an email correspondence from Mr. Newman, who noted that someone had reported that the detention basin needed repair work. He then said that Ball Homes contacted their structural engineer regarding the repairs, as well as contacting the Army Corps of Engineers concerning whether or not permits would be required.

Ms. Roche-Philips asked what kind of repair work was done to the basin. Mr. Emmons said that through the normal inspection of the basin it was determined that grouting around the pipe had failed; therefore, the repair work consisted of fixing that problem. Ms. Roche-Phillips asked if the repair work consisted of grouting around the pipe. Mr. Emmons said that the staff was unsure of what repair was needed, and referred the question to the applicant.

Ms. Roche-Phillips asked if there was any sediment moved. Mr. Kahly replied that there was settlement over the last joint in the pipe outlet, and to make the repairs to the basin, the pipe needed to be exposed, re-grouted and covered back with soil. Ms. Roche-Phillips asked if sedimentation approval was need. Mr. Parker replied that it was not.

Ms. Copeland said that she is in favor of this request; but when comparing the Southland neighborhood to the Gess property, Southland has multiple features within walking distance, whereas the Gess property only offers the greenway system. She said that the Gess property does not offer libraries, churches, or commercial uses, adding that there are multiple subdivisions throughout this area, which is different from neighborhood components. Ms. Copeland said that as the Comprehensive Plan moves forward, walkability – not just connectivity - should be incorporated into new developments. She then said that perhaps new Goals could be added to allow more uses in these areas as well as keeping greenspace. She asked if the Gess property will have the same type of components as the Southland neighborhood. Mr. Emmons said that just off Hays Boulevard, between the three drainageways, 6-

acres are zoned for Community Center (CC), which could provide those components. He then said that the Planning Commission had previously approved a proposed apartment complex (Unit 8) to be built on at least 2/3 of this 6-acre tract. Ms. Copeland said that the remaining acreage in the CC zone would be similar to the size of the CentrePointe block downtown. She asked what types of amenities are being provided within a ½ mile from the Community Center. Mr. Kahly said that he is unsure what will be proposed in the CC area without reviewing the plans. He then said that this request is for a one-year extension of these plats. Ms. Copeland said that there is a problem with subdivisions being built rather than neighborhoods.

Ms. Beatty asked when a development plan or subdivision plan comes back for reapproval or a one-year extension, if new guidelines have been enacted, if the new guidelines are applied. Mr. Emmons said that each application is reviewed on a case-by-case basis to determine how much of the development has been completed. He noted that when the Commission originally approves a request, that request has a one-year time limit to be certified. He said that, if a request is not certified in a timely manner, there are two ways to extend the original date of approval: 1) the applicant can submit a request for a reapproval, which means the one-year time limit has expired; or 2) the applicant can submit a request for a one-year extension, which means the expiration date is nearing its end. Once the staff receives the submitted application, the applicant's request is reevaluated under any updated regulations.

Mr. Cravens asked for clarification with the added condition for PLAN 2005-269F: GESS PROPERTY (CHILESBERG), UNIT 2-D. Mr. Emmons said that the staff felt it would be appropriate to make the Commission's recommendation to monitor the USGS data a condition for that plat.

Ms. Copeland said that 10 acres is required for a library, which means the Community Center area is not large enough to sustain that use. She then said that there should be some flexibility in a development to adapt to what is needed to acquire a walkable neighborhood. She suggested that the Comprehensive Plan could be updated to make zoning more attractive to draw certain uses into these areas. Mr. Saltee said that a group of staff members has been meeting on this general issue; and as the Comprehensive Plan moves forward, those recommendations may be presented to the Commission. He said that these recommendations will not only be for the Expansion Area, but for all Community Center areas.

Mr. King said that even though those are important issues, it comes down to what is permissive versus what is directive. He said that the staff can not direct the Public Library to build at any given location, and libraries are not subject to zoning regulations. The staff did consult with the Public Library during the planning of this area, as well as suggesting that they become part of the exaction program for the Expansion Area, but they were not interested. He said that the Public Library has their own criteria when placing a library at a specific location. Mr. King then said that both the Transition Areas (TA) and the Community Center areas (CC) allow churches and retail uses, but at this time those uses have not shown any interest to locate to this area. The staff fully understands the Commission's concerns, but the staff can not force a particular use upon a community. He said that when the Expansion Area was envisioned, those issues were discussed, along with the how to provide walkability within a neighborhood. As for the Fayette County Public School's, the School Board dictated where a school should be built on the Gess property. He said that the staff has been discussing ways to influence private sector or public agencies to come to these areas, as well as how to provide walkable neighborhoods.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Paulsen, seconded by Mr. Owens, and carried 8-0 (Brewer absent) to approve a one-year extension for PLAN 2005-269F: GESS PROPERTY (CHILESBERG), UNIT 2-D, subject to the previous conditions, with the additional condition:

11. Monitor the USGS data with regard to runoff, as recommended by the Commission on August 12, 2010.

Action - A motion was made by Mr. Paulsen, seconded by Ms. Beatty, and carried 8-0 (Brewer absent) to approve a one-year extension for PLAN 2006-220F: GESS PROPERTY, UNIT 2-E (CHILESBERG), subject to the previous conditions provided by the staff.

Action - A motion was made by Mr. Paulsen, seconded by Mr. Owens, and carried 8-0 (Brewer absent) to approve a one-year extension for PLAN 2006-221F: GESS PROPERTY, UNIT 2-F (CHILESBERG), subject to the previous conditions provided by the staff.

Action - A motion was made by Mr. Paulsen, seconded by Ms. Beatty, and carried 8-0 (Brewer absent) to approve a one-year extension for PLAN 2006-222F: GESS PROPERTY, UNIT 2-G (CHILESBERG), subject to the previous conditions provided by the staff.

**V. COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.

**A. ZOTA 2011-8: AMENDMENT TO AUTHORIZE CHANGES IN PERMITTING AND ENFORCEMENT FUNCTIONS TO THE DIVISION OF PLANNING AND TO CREATE A ZONING COMPLIANCE PERMIT**

---

\* - Denotes date by which Commission must either approve or disapprove plan.

REQUESTED BY: Urban County Council

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reasons:

1. These amendments to the Zoning Ordinance are necessary to implement changes being proposed within the Divisions of Building Inspection and Planning in order to better manage interpretation and enforcement of the Ordinance, as well as the permitting process.
2. These changes were recommended by several parties: a) the Building Inspection Task Force (an Ad Hoc Committee that performed a comprehensive review of all the functions of Building Inspection); b) the new Mayor's Transition Team; and c) the Chief Administrative Officer, based on his experience as Commissioner of the State Department of Housing, Buildings and Construction. Based on these recommendations, the Urban County Council initiated the amendments to implement the proposed changes.
3. Creation of a Zoning Compliance Permit will help to facilitate the permitting process and will provide a level of consistency in interpretation of the Zoning Ordinance.
4. The minor "cleanup" changes are only to organizational references that should have been corrected long ago.

Staff Presentation - Ms. Rackers directed the Commission's attention to the Staff Report for ZOTA 2011-8, and noted that this proposed text amendment is to authorize changes in permitting and enforcement functions, transferring them from the Division of Building Inspection to the Division of Planning, and to authorize creation of a zoning compliance permit. This text amendment was initiated by the Urban County Council. She stated that the staff had received a letter of support from The Fayette Alliance Group, which she circulated to the Commission.

Ms. Rackers stated that this text amendment was based on three sets of recommendations. In 2009, the Urban County Council created an Ad Hoc Committee (Building Inspection (BI) Task Force), and their primary purpose was to provide a comprehensive review of all activities and duties that are within Building Inspection's purview. The BI Task Force met for several months and found several issues they considered problematic areas. Most have been addressed through recent text amendments. One of their recommendations was to address the permitting process, which includes interpretation and enforcement of the Zoning Ordinance. Ms. Rackers then stated that, in addition, the Mayor's Transition Team had discussed reorganization of the Lexington-Fayette Urban County Government, as well as other changes that might make the overall operation of the LFUCG more efficient and effective. Ms. Rackers also said that Richard Maloney, Chief Administrative Officer, had provided input from his previous experience as State Commissioner of Housing, Building's and Construction.

Ms. Rackers said that one of the Task Force's recommendations was to separate the administration and enforcement of the Zoning Ordinance and Building Codes. She then said that, in the past, this responsibility had been primarily by Building Inspection's responsibility, but it has been recommended that they be separated between the Division of Building Inspection and the Division of Planning. The management of the building codes will continue to be done by the Division of Building Inspection, while enforcement of the Zoning Ordinance will be done by the Division of Planning.

Ms. Rackers said that the overall goal is to address the issues that were seen as problems by the Task Force, the intent being to make the operations of the LFUCG more efficient and effective with regard to permitting, make the process more customer friendly, and make the interpretation and enforcement of the Zoning Ordinance more consistent. She then said that the primary change will be to transfer the responsibility of interpreting and enforcement of the Zoning Ordinance, which addresses land use to the Division of Planning; and the Division of Building Inspection will continue to administer the Building Codes and all requirements issues related to construction. Permitting of fence, paving, signs and pool, as well as single and two-family residential, will remain with Building Inspection for now.

A part of this text amendment is to create a Zoning Compliance Permit, which will be issued by the Division of Planning prior to issuance of any permit for construction by Building Inspection. This new permit will be required for a structure that is governed by a development plan, or prior to any change of use on a property. She said that the new permit will also be a prerequisite for the issuance of a Certificate of Occupancy for anything other than single or two-family residential structures.

Ms. Rackers then said that, in addition to these major changes, there are two minor "cleanup" changes that are proposed. Article 7 of the Zoning Ordinance contains a reference to the Division of Planning being part of the Department of Administrative Services; this is no longer the case and will be deleted. She said that Articles 13 and 27 of the Zoning Ordinance reference the Division of Housing Maintenance, which has become the Division of Code Enforcement.

In conclusion, Ms. Rackers said that the staff presented this item to the Zoning Committee, who recommended approval.

The staff also recommends approval, for the flowing reasons:



1. These amendments to the Zoning Ordinance are necessary to implement changes being proposed within the Divisions of Building Inspection and Planning in order to better manage interpretation and enforcement of the Ordinance, as well as the permitting process.
2. These changes were recommended by several parties: a) the Building Inspection Task Force (an Ad Hoc Committee that performed a comprehensive review of all the functions of Building Inspection); b) the new Mayor's Transition Team; and c) the Chief Administrative Officer, based on his experience as Commissioner of the State Department of Housing, Buildings and Construction. Based on these recommendations, the Urban County Council initiated the amendments to implement the proposed changes.
3. Creation of a Zoning Compliance Permit will help to facilitate the permitting process and will provide a level of consistency in interpretation of the Zoning Ordinance.
4. The minor "cleanup" changes are only to organizational references that should have been corrected long ago.

Planning Commission Questions – Mr. Cravens confirmed that single family structures will not be affected. Ms. Rackers said that neither single nor two-family residential structures will be affected.

Audience Comment – The Chair asked if anyone in the audience or on the Commission wished to discuss this text amendment. There was no response.

Action - A motion was made by Ms Roche-Phillips, seconded by Mr. Wilson, and carried 8-0 (Brewer absent) to approve ZOTA 2011-8, for the reasons provided by the staff:

- B. OTHER ITEMS** - The Chair asked if there was any other item a Commission member would like to discuss. Referring to a previously discussed item, Ms. Copeland said that there is no community center or family activity center within the Gess Property. Mr. Cravens noted that there is a 20-acre area that is designated for a school. Ms. Copeland said that she believes Jacobson Park is being used as an "escape hatch" for not providing a park on the Gess Property.

Mr. Owens said that these items were originally approved in 2005, and the Commission will have the opportunity over the next year to review this type of issue when considering what might be included in the 2012 Comprehensive Plan. He said that if these types of facilities are wanted or needed to ensure walkability throughout a neighborhood, the Commission should review this problem over the next year with respect to the Comprehensive Plan. He noted that there are existing Community Center zoned areas in Lexington that are vacant, and the Gess Property will be completely built out before the two acres of CC zoning are developed. He suggested that over the next year the Commission review these issues and see if the CC area could be made better as far as walkability is concerned.

Ms. Blanton said that it was previously mentioned that no one has shown any interest in bringing certain amenities to this area. She said that future plans can be made, but if the area is not attractive to retailers they can not be forced to open their stores at a certain location. She asked if the staff has considered how to make an area more attractive for future retailers. Mr. Sallee replied affirmatively, but added that he was not familiar with the details of the staff-level discussions on this topic.

Ms. Roche-Phillips said that the Planning Commission approved an apartment complex in part of the Gess Property CC area in 2010. She said that, at that meeting, the neighborhood came before the Commission in opposition to those apartments. The Commission had the opportunity to make a difference, but a development can not be disapproved due to the proposed land use when it's permitted by the existing zoning regulations. She said that the Planning Commission had an opportunity to do something at that time, but failed.

Ms. Blanton said that the Commission can not make someone hold their land vacant forever because a land use other than what is proposed by the owner or developer is more desirable to the neighborhood.

Mr. Cravens said that the Gess property apartments had been planned for many years, and there had been a proposed convenience store in the CC area; but the community was in opposition to that use. He then said that as far as the greenway areas are concerned, those areas are restricted from being altered.

Ms. Copeland said that a neighborhood park should have been proposed on the Gess property. Mr. Cravens said that the school property is used as a neighborhood park. Ms. Copeland said that the school is not within walking distance, to which Mr. Cravens responded that the school is adjacent to the CC area. Ms. Copeland said that she would not take her 3-year old child to the school to play on their equipment, if equipment were there. Mr. Cravens said that the school does have equipment, along with a miniature park. Ms. Copeland responded that the pool and park in Southland, Woodland and so forth may be adjacent to schools; but they are not located on the school property. She said that most people would not take their children to the school to play, as they would a neighborhood park.

Mr. Paulsen said that there were only 6 acres not zoned for residential use on the Gess property, and it is still the same zone as it was when originally approved. He then said that the Commission should look at ways to prevent this from happening in the future when reviewing the Comprehensive Plan, as well as ways to make an area like this more attractive.

Ms. Copeland asked how an existing area can be retrofitted to form an easy basis for changing the existing zone to accommodate a different use (e.g. two corner lots zoned single family residential rezoned for a different use), based on

need. She said that the Comprehensive Plan should be allowed to accommodate the needs of a community, if it is necessary.

Mr. Paulsen said that the Commission is in general agreement with these issues and the question now is how to avoid this problem in the future. He said that his preference is not to retrofit an area, but rather provide better planning in the beginning. He made note that if two single family lots were to be rezoned for a gas station, the community would scream "Not In My Back Yard."

Mr. King said that, at some point in the future, the staff could provide the Commission with the historical background on the master planning for the Gess property. He then said that throughout the history of Lexington, the Gess property was the best planned area when the Expansion Area Master Plan was envisioned. There were meetings with hundreds of people, along with two leading architecture design firms, who were involved in that overall master plan.

**VI. STAFF ITEMS** – The Chair will announce that any item a Staff member would like to present will be heard at this time.

**A. CANCELLATION OF AUGUST WORK SESSION** – Mr. King said that in reviewing the upcoming staff activities, along with the Commission's hard work with the text amendments and Comprehensive Plan, the staff does not have any pressing issues to report. He said that if the Commission wished, the August 18, 2011 Work Session could be cancelled.

Action: A motion was made by Mr. Wilson, seconded by Ms. Blanton, and carried 8-0 (Brewer absent) to cancel the previously scheduled August 18, 2011, Work Session.

**VII. AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

**VIII. NEXT MEETING DATES -**

Work Session, Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers (Cancelled) .....	August 18, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	August 24, 2011
<b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	<b>August 25, 2011</b>
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	September 1, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	September 1, 2011
<b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	<b>September 8, 2011</b>

**IX. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 2:27 PM.

---

Mike Cravens, Chair

---

Lynn Roche-Phillips, Secretary